

REMARKS

Claims 6 to 8 and 22 to 28 are pending. Claim 6 has been amended without prejudice to clarify the operation of the injection device and to correct clerical errors and informalities. Support for the amendments to claim 6 are found throughout the specification, e.g., at page 14, lines 19-22. New claim 28, which is directed to a cartridge, has been added. Support for the new claim can be found throughout the specification, e.g., at page 11, line 25 to page 12, line 24. The specification has been amended to provide a brief description of Figs. 18A and 18B. No new matter has been added.

Withdrawn Rejections

Applicants acknowledge the Office's withdrawal of the previous rejections for alleged double patenting and indefiniteness.

Specification

The Office objects to the disclosure because the Applicant indicates "right" and "left" in the brief description of the drawings for Fig. 18 and the drawings are actually labeled Fig. 18A and B. The specification has been amended to provide a brief description of Figs. 18A and 18B as requested by the Office. Accordingly, applicants request that the present objection be reconsidered and withdrawn.

Double Patenting

The Office rejects Claims 6-8 and 22-26 for alleged nonstatutory obviousness-type double patenting over Claims 1-8 of U.S. Patent No. 5,776,107 (hereinafter the "'107 patent"). Specifically, the Office suggests that the claims of the present application and those of the '107 patent are different in that the present claims recite "wherein said liquid and said dry drug composition (20) are combined in said housing (10) prior to injection." The Office Action goes on to state (at page 3):

The remaining limitations of Applicant's current claims are all otherwise recited in the claims of Patent '107. (It appears that an amendment to the claims to recite

that the liquid and dry drug composition are separated in the injection device and subsequently combined in the injection device would overcome this rejection.)

Applicant does not agree that the present obviousness-type double patenting rejection over the '107 patent is proper. However, in the interest of expediting prosecution in the present case, applicants have amended claim 6 without prejudice as suggested by the Office. Specifically, claim 6 has been amended to recite "a hollow housing (10) having a proximal end and a distal end, said distal end being configured to contain a liquid (20B) and a solid drug composition (20A) separate from each other, wherein said liquid (20B) and said solid drug composition (20A) are combined in said housing (10) prior to injection to form a composition (20) for injection into a subject." Given the Office's above-quoted suggested amendments to the claim, applicants believe that the present amendment obviates this rejection. Accordingly, applicant respectfully requests that the rejection be reconsidered and withdrawn.

The Office also rejected claim 27 for alleged nonstatutory obviousness-type double patenting over Claims 1-8 of U.S. Patent No. 5,776,107, in view of Perouse, 6,110,147. Applicants do not agree that the present rejection is proper. However, as discussed above, claim 6, from which claim 27 depends, has been amended without prejudice as suggested by the Office, thereby obviating the present rejection. Accordingly, applicants request that the present rejection be reconsidered and withdrawn.

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CONCLUSION

Applicants ask that all rejections be reconsidered and withdrawn. The fees in the amount of \$1,020.00 for a Petition for Extension of Time for a three-month extension are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 05339-014003.

Respectfully submitted,

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